

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

| | | | |
|---|--|---|--|
| I. (a) PLAINTIFFS WANDA TATE-LINTON | | DEFENDANTS NEW JERSEY TRANSIT RAIL OPERATIONS, INC., AND JAMES HOLLINGER NEW JERSEY TRANSIT RAIL OPERATIONS INC. | |
| (b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i> | | County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. | |
| (c) Attorneys (Firm Name, Address, and Telephone Number) JAMES M. DUCKWORTH, ESQUIRE KELLER & GOGGIN, P.C., 1528 WALNUT STREET, SUITE 900 PHILADELPHIA, PA 19102 (215) 735-8780 | | Attorneys (If Known) | |
| II. BASIS OF JURISDICTION (Place an "X" in One Box Only) | | III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) | |
| <input type="checkbox"/> 1 U.S. Government Plaintiff | | <input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> | |
| <input type="checkbox"/> 2 U.S. Government Defendant | | <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i> | |
| IV. NATURE OF SUIT (Place an "X" in One Box Only) | | PTF DEF Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4 | |
| CONTRACT | | Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 | |
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | | Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 | |
| TORTS | | FORFEITURE/PENALTY | |
| <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input checked="" type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | |
| REAL PROPERTY | | PROPRIETARY RIGHTS <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | |
| CIVIL RIGHTS | | SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | |
| PRISONER PETITIONS | | FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |
| V. ORIGIN (Place an "X" in One Box Only) | | IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | |
| <input checked="" type="checkbox"/> 1 Original Proceeding | | CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING (DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY): FEDERAL EMPLOYER LIABILITY ACT, SEX DISCRIMINATION IN EMPLOYMENT | |
| VI. CAUSE OF ACTION | | BRIEF DESCRIPTION OF CAUSE: | |
| VII. REQUESTED IN COMPLAINT: | | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. | |
| VIII. RELATED CASE(S) IF ANY | | DEMAND \$ CHECK YES ONLY IF DEMANDED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| <i>(See instructions):</i> | | JUDGE _____ | |
| DATE 07/03/2014 | | SIGNATURE OF ATTORNEY OF RECORD | |
| FOR OFFICE USE ONLY | | DOCKET NUMBER _____ | |
| RECEIPT # | | AMOUNT | |
| APPLYING F.P. | | JUDGE | |
| | | MAG. JUDGE | |

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

WANDA TATE-LINTON :
3501 Woodhaven Road :
Philadelphia, PA 19154 :
: CIVIL ACTION NO.:
vs. :
: NEW JERSEY TRANSIT RAIL
: OPERATIONS, INC. (NJTRO)
: One Penn Plaza East
: Newark, NJ 07105-2246
: vs.
: JAMES HOLLINGER :
: NEW JERSEY TRANSIT RAIL :
: OPERATIONS, INC. :
: One Penn Plaza East :
: Newark, NJ 07105-2246 :
:

COMPLAINT

Plaintiff, Wanda Tate-Linton alleges:

JURISDICTION AND VENUE

1. The jurisdiction of this Court over the subject matter of this action is predicated on 42 U.S.C. Section 2000e-5(f)(3), 28 U.S.C. Section 1331, diversity between Plaintiff and Defendant NJTRO, and principles of pendent jurisdiction over cases arising under federal law.
2. Venue is proper in the Eastern District of Pennsylvania pursuant to 45 U.S.C. Section 56, because NJTRO has significant business operations within the Eastern District.

PARTIES

3. Plaintiff Wanda Tate-Linton is and at all times mentioned herein was an African-American female residing in the County of Philadelphia, Commonwealth of Pennsylvania and was employed by defendant New Jersey Transit Rail Operations, Inc.
4. Defendant New Jersey Transit Rail Operations, Inc. (hereinafter referred to as "NJT").

is and at all times was a corporation that employed fifteen or more employees for 20 or more weeks each calendar year and was engaged in interstate commerce within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e.

5. Defendant NJTRO operates a passenger railroad in and between the states of Pennsylvania, New York and New Jersey and is subject to the provisions of the Federal Employers' Liability Act 45 U.S.C. Section 51 *et seq.*

6. Defendant James Hollinger, is an employee of New Jersey Transit Rail Operations, Inc., whose activities subject to this complaint occurred while working for NJTRO on NJTRO's property.

7. Plaintiff is informed and believes, and based thereon alleges that each defendant is the agent, servant, employee, successor in interest, co-conspirator, and/or alter ego of every other defendant, and that, in doing the acts alleged herein, each defendant acted as the agent of and with the consent, knowledge, authorization, and/or ratification of every other defendant herein.

8. Plaintiff is informed and believes and based thereon alleges that defendant was in some manner intentionally and/or negligently and legally responsible for the events and happenings alleged in this Complaint and for plaintiff's injuries and damages.

FACTS

FIRST CAUSE OF ACTION

(Federal Employers' Liability Act, U.S.C.A. Title 45, Sec 51 *et seq.*)

Plaintiff v. Defendant, NJTRO

9. Plaintiff repeats and realleges the allegations contained in paragraphs 1 - 8 inclusive, and incorporates the same by reference as though set forth fully herein.

10. The action arises under the Act of Congress, April 22, 1908, c. 149, 35 Stat. 65, and amendments thereto, U.S.C.A. Title 45, Sec 51 *et seq.*, and further amended by the Act of Congress, approved by the President of the United States on August 11, 1939, Chapter 685 - First Session of the 76th Congress, known and cited as "The Federal Employers' Liability Act"

11. All the acts alleged to have been done or not to have been done by the Defendant were done or not done by the Defendant, its agents, servants, workmen and/or employees acting in the course and scope of its employment for and on behalf of the Defendant.

12. At all time material hereto, Plaintiff was employed by Defendant and was subjected to harmful, illegal and improper sexual discrimination by, among other things, her supervisor, a senior employee of Defendant NJTRO, repeatedly engaged in unwarranted and unjustified conduct by surreptitiously taking photographs up Plaintiff's skirt without her permission.

13. Plaintiff reported Defendant Supervisor Hollinger's misconduct to other senior employees of Defendant who did not properly report or remedy the situation.

14. Plaintiff was subjected to retaliation when it became known to Defendant Supervisor Hollinger that Plaintiff was making inquiries as to her right to be free from such unwarranted and unjustified behaviors.

13. The negligence and carelessness of the Defendant consisted of the following, inter alia:

- a) Failing to provide Plaintiff with a safe place to work;
- b) Failing to keep the workplace free from sexual intimidation and harassment, sexual abuse;
- c) Negligent failure to provide a workplace free of tortious interference with her body and person;
- f) Negligent failure to supervise managerial employees so as to provide her with a workplace free of tortious physical contact with her body and menaces to her person;
- g) Intentional infliction of emotional distress in allowing Defendant Hollinger's conduct to exist and persist;
- h) Negligent infliction of emotional distress in allowing Defendant Hollinger's conduct to exist and persist;

SECOND CAUSE OF ACTION

(Sex Discrimination in Employment, 42 U.S.C. Section 2000e, et seq.)

Plaintiff v. all Defendants

14. Plaintiff repeats and realleges the allegations contained in paragraphs 1 - 13 inclusive, and incorporates the same by reference as though set forth fully herein.

15. In July 2012, Plaintiff was subjected to a caustic, hostile, and illegal work environment where sexual harassment was open, pervasive and of such severity that employees and management could not have been unaware of the illegal activities taking place.

16. Plaintiff was repeatedly and improperly the subject of a number of upskirt photographs surreptitiously taken by co-worker James Hollinger, a NJTRO supervisor, who was popular and friendly with management and other workers.

17. The conduct was reported to several senior employees of Defendant without remedy, discipline or avail.

18. Plaintiff was then subject to retaliation by her supervisor after he learned that Plaintiff sought information about protecting herself from Defendant Hollinger's abuses.

19. Plaintiff has been forced to take a number of days off to deal with the trauma stemming from Defendants' misconduct which has caused and may cause future financial harm.

20. Defendants' engaged in serious misconduct which may have caused serious emotional and financial harms with physical manifestations, all or some of which may be permanent in nature.

21. Defendant, directly and through employees and agents, subjected plaintiff to unlawful sexual harassment in violation of Title VII of the Civil Rights Act, 42 U.S.C. Section 200e et seq., in that plaintiff's acceptance of harassment by defendant was an express and implied condition to the receipt of certain job benefits, and defendant's harassment of plaintiff was the cause of tangible job detriments to plaintiff.

22. The acts described above also created a hostile and sexually offensive working environment for plaintiff.

23. Plaintiff has exhausted all administrative remedies.

24. As a direct and proximate result of defendant's actions, plaintiff has suffered and will continue to suffer emotional distress, consisting of outrage, shock, humiliation, and psychological trauma, reasonably occurring and likely to occur based on the sexual harassment she experienced and defendant's failure to take prompt and appropriate remedial action; and she has

suffered and will continue to suffer a loss of earnings and employment benefits and job opportunities.

25. Plaintiff is thereby entitled to general and compensatory damages in an amount to be proven at trial.

26. Defendant's conduct as alleged herein was committed maliciously, fraudulently, and oppressively with the wrongful intention of injuring plaintiff, and defendant acted with an improper and evil motive amounting to malice.

27. Alternatively, defendants' despicable conduct was carried out in conscious disregard of plaintiff's rights.

28. As a result of defendants' conduct, plaintiff is entitled to recover punitive damages in an amount commensurate with the wealth of defendant.

WHEREFORE, plaintiff demands judgment in excess of \$175,000.00 as follows:

1. For compensatory damages and general damages according to proof at trial
2. For attorneys fees pursuant to statute and costs of suit
3. Prejudgment interest on all amounts claimed
4. Such other and further relief as the Court deems just and proper

DATE: July 3, 2014

KELLER & GOGGIN, P.C.

By: _____

JAMES M. DUCKWORTH, ESQUIRE
PA Attorney I.D. No. 83017
Suite 900, 1528 Walnut St.
Philadelphia, PA 19102
(215) 735-8780
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATE: July 3, 2014

KELLER & GOGGIN, P.C.

By: 
JAMES M. DUCKWORTH, ESQUIRE
PA Attorney I.D. No. 83017
Suite 900, 1528 Walnut St.
Philadelphia, PA 19102
(215) 735-8780
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

WANDA TATE-LINTON

CIVIL ACTION

NEW JERSEY TRANSIT RAIL
OPERATIONS INC. v.
JAMES HOLLINGER NJTRO

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()

(f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

JULY 3, 2014
Date

JAMES M. DUCKWORTH
Attorney-at-law

WANDA TATE-LINTON
Attorney for

215-735-8780

215-735-5126

jduckworth@keller-goggin.com

Telephone

FAX Number

E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 351 WOODHAVEN ROAD, PHILADELPHIA, PA 19154

Address of Defendant: ONE PENN PLAZA EAST, NEWARK, NJ 07105

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts

2. FELA

3. Jones Act-Personal Injury

4. Antitrust

5. Patent

6. Labor-Management Relations

7. Civil Rights

8. Habeas Corpus

9. Securities Act(s) Cases

10. Social Security Review Cases

11. All other Federal Question Cases

(Please specify) _____

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts

2. Airplane Personal Injury

3. Assault, Defamation

4. Marine Personal Injury

5. Motor Vehicle Personal Injury

6. Other Personal Injury (Please specify)

7. Products Liability

8. Products Liability — Asbestos

9. All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, JAMES M. DUCKWORTH, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: JULY 3, 2014

JAMES M. DUCKWORTH

Attorney-at-Law

83017
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: JULY 3, 2014

JAMES M. DUCKWORTH, ESQ.

Attorney-at-Law

83017
Attorney I.D.#